

**REQUEST FOR PROPOSALS**

**COMPREHENSIVE ENERGY EFFICIENCY**

**PROGRAM FOR EXISTING RESIDENTIAL**

**AND NONRESIDENTIAL BUILDINGS**



RFP #400-10-401  
[www.energy.state.ca.gov/contracts](http://www.energy.state.ca.gov/contracts)  
State of California  
California Energy Commission  
June 2010

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- B-1 Budget Summary
- B-2 Prime and Sub Rates
- B-3 Prime and Sub Indirect Rates
  
- 1 Contractor Status Form
- 2 Darfur Contracting Act
- 3.1 Certified Small/micro Business, Non-small Business and DVBE Certification Instructions
- 3.2 Disabled Veteran Business Enterprise Program Requirements
- 3.3 Bidder Declaration form GSPD-05-105
- 4 Contractor Certification Clauses
- 5 Client References
- 6 Sample Standard Agreement
- 7 Target Area Contract Preference Act (TACPA) Request
- 8 Enterprise Zone Act (EZA) Preference Request
- 9 Local Agency Military Base Recovery Area (LAMBRA) Preference Request
- 10 Hypothetical Work Authorization and Budget Documents for Hypothetical Work Authorization

## **I. Introduction**

### **BACKGROUND**

AB 758 (Chapter 470, Statutes of 2009) requires the Energy Commission to develop and implement a comprehensive program to achieve greater energy savings in the state of California's existing residential and nonresidential building stock. The Energy Commission will conduct regulatory proceedings to establish the program, entitled the "Comprehensive Energy Efficiency Program for Existing Residential and Nonresidential Buildings". The program is required to be comprised of a complimentary portfolio of techniques, applications, and practices that will achieve greater energy efficiency in existing residential and nonresidential structures that fall significantly below the efficiency required by the current California Building Energy Efficiency Standards (Title 24, Part 6 of the California Code of Regulations).

### **PURPOSE OF RFP**

The purpose of this Request for Proposal (RFP) is to select a technical support contractor to aid the Commission in the development and implementation of the program. The Contractor will assist the Energy Commission with development of the following:

- Needs assessments for energy efficiency improvements in residential and nonresidential buildings;
- Technical guidance for Phase Two of the Home Energy Rating System (HERS II);
- A Building Energy Asset Rating System (BEARS) for nonresidential buildings;
- Residential and nonresidential rating and disclosure programs;
- Residential and nonresidential efficiency improvement programs;
- Approaches to reduce barriers to efficiency financing and tax credits for newly constructed affordable housing;
- Streamlined permitting processes for alterations of existing residential buildings;
- Approaches to evaluate and recommend improvements to the program; and
- Additional program components requiring technical expertise.

### **KEY ACTIVITIES AND DATES**

Key activities and times for the RFP are presented below. This is a tentative schedule; please call the Contracts Office to confirm dates.

## **I. INTRODUCTION, CONTINUED**

<b>ACTIVITY</b>	<b>ACTION DATE</b>
RFP Release	June 14, 2010
Deadline for Written Questions	June 29, 2010
Pre-Bid Conference	June 29, 2010
Distribute Questions/Answers and Addenda (if any) to RFP	July 16, 2010
<b>Deadline to Submit Proposals by 3:00 p.m.</b>	July 29, 2010
Clarification Interviews (If necessary)	August 10, 2010
Notice of Proposed Award	August 11, 2010
Commission Business Meeting	September 22, 2010
Contract Start Date	November 1, 2010
Contract Termination Date	March 31, 2013

### **AVAILABLE FUNDING**

There is \$1,500,000 available for the contract resulting from this RFP. This is an hourly rate plus cost reimbursement contract and the award will be made to the highest-scored responsible Bidder.

This contract is funded by the American Recovery and Reinvestment Act of 2009 (ARRA) State Energy Program (SEP), and by the state Energy Resources Program Account.

Funding for this agreement comes from two fiscal years (FY), \$1,000,000 from FY 2010-11 and \$500,000 FY 2011-12. Funding shall be subject to the appropriation and availability for that purpose in the 2010-11 and 2011-12 Governor's Budget. In the event funds are not available, the Commission shall have no further liability with regard to the agreement.

The Commission reserves the right to reduce the contract amount to an amount deemed appropriate in the event the budgeted funds do not provide full funding of Commission contracts. In this event, the Contractor and Commission Contract Manager (CCM) shall meet and reach agreement on a reduced scope of work commensurate with the level of available funding.

### **PRE-BID CONFERENCE**

There will be one Pre-Bid Conference; participation in this meeting is optional but encouraged. The Pre-Bid Conference will be held at the date, time and location listed below. Please call (916) 654-4392 or refer to the Energy Commission's website at [www.energy.ca.gov](http://www.energy.ca.gov) to confirm the date and time.

## **I. INTRODUCTION, CONTINUED**

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June 29, 2010  
9:00 am  
California Energy Commission  
Hearing Room A  
1516 9th Street  
Sacramento, CA 95814  
Telephone: (916) 654-4392

PARTICIPATION THROUGH WEBEX, THE ENERGY COMMISSION'S ON-LINE MEETING SERVICE

### **REGISTRATION**

1. To register for this event, go to  
<https://energy.webex.com/energy/j.php?ED=145846402>

Or go to <https://energy.webex.com> and enter the meeting number 921 443 096 and click the "Register" button.

2. Provide your information as requested and then click the Register Now button.
3. You will receive a confirmation email message that contains the details to join the event.

### **JOIN THE LIVE MEETING**

#### **COMPUTER LOGON**

Follow the instructions in your confirmation email to join the meeting a few minutes early.

#### **TELEPHONE ONLY (No Computer Access)**

If you cannot join the meeting via computer, you can listen to the audio via phone by calling toll-free 1-866-469-3239 and entering the Meeting Number 921 443 096 followed by the # key. When asked for your Attendee ID number, please press the # key. You will then be entered into the call of the meeting.

If you have difficulty joining the meeting, please call the WebEx Technical Support number at 1-866-229-3239. Please be aware that the meeting's WebEx audio and on-screen activity may be recorded.

## **I. INTRODUCTION, CONTINUED**

### **QUESTIONS**

During the RFP process, questions of clarification about this RFP must be directed to the Contracts Officer listed in the following section. You may ask questions at the Pre-Bid Conference, and you may submit questions in writing (via mail, electronic mail, and FAX) and by phone. However, all questions must be received by 5:00 pm on the day of the Pre-Bid Conference. After the Pre-Bid Conference, questions and answers will be mailed to all parties who requested a copy of this RFP from the Commission Contracts Office and all that attended the Pre-Bid conference. The questions and answers will also be posted on the Commission's website at:

<http://www.energy.ca.gov/contracts/index.html>.

Any verbal communication with a Commission employee concerning this RFP is not binding on the State and shall in no way alter a specification, term, or condition of the RFP.

### **CONTACT INFORMATION**

Angela Hockaday, Contracts Officer  
California Energy Commission  
1516 Ninth Street, MS-18  
Sacramento, CA 95814  
Telephone: (916) 654-5186  
FAX: (916) 654-4423  
Email: [ahockada@energy.state.ca.us](mailto:ahockada@energy.state.ca.us)

### **RESPONSES TO THIS RFP**

Responses to this RFP shall be in the form of a Technical and Cost Proposal according to the format described in this RFP. The Technical Proposal shall document the Bidder's approach, experience, qualifications, and project organization to perform the tasks described in the Scope of Work, and the Cost Proposal shall detail the Bidder's budget to perform such tasks.

### **REFERENCE DOCUMENTS**

Bidders responding to this RFP should familiarize themselves with the following documents:

California Long Term Energy Efficiency Strategic Plan, California Public Utilities Commission, September 2008 (available at [www.California EnergyEfficiency.com](http://www.CaliforniaEnergyEfficiency.com))

Climate Change Scoping Plan, California Air Resources Board, December 2008 (available at [http://www.arb.ca.gov/cc/scopingplan/document/adopted\\_scoping\\_plan.pdf](http://www.arb.ca.gov/cc/scopingplan/document/adopted_scoping_plan.pdf))

Achieving Cost-Effective Energy Efficiency for California: Second Annual AB 2021 Progress Report, California Energy Commission, June 2009, CEC-200-2009-008-SD (available at <http://www.energy.ca.gov/2009publications/CEC-200-2009-008/CEC-200-2009-008-SD.PDF>)



## **I. INTRODUCTION, CONTINUED**

Options for Energy Efficiency in Existing Buildings, California Energy Commission, December 2005, CEC-400-2005-039-CMF (available at <http://www.energy.ca.gov/2005publications/CEC-400-2005-039/CEC-400-2005-039-CMF.PDF>)

The above reference documents are on display and available for review in the Energy Commission's Library (Monday-Thursday from 9:00 a.m. to 12:00 p.m. and 1:00 p.m. to 4:00 p.m., and Friday, 9:00 a.m. to 12:00 p.m.) located at:

California Energy Commission  
1516 Ninth Street, MS-10  
Sacramento, CA 95814  
(916) 654-4875

## **I. INTRODUCTION, CONTINUED**

### **KEY WORDS AND DEFINITIONS**

Important definitions for this RFP are presented below:

<b>Word/Term</b>	<b>Definition</b>
AB 758	California Assembly Bill 758 (stats. 2009, ch. 470) as codified in Public Resources Code section 25943 and Public Utilities Code sections 381.2 and 385.2. This bill was sponsored by Assembly member Nancy Skinner and passed into law in 2009. AB 758 requires the Energy Commission to establish a regulatory proceeding to develop a comprehensive program to achieve greater energy savings in the state's existing residential and nonresidential building stock.
AB 1103	California Assembly Bill 1103 (stats. 2007, ch. 533) as codified in Public Resources Code section 25402.10. This bill was sponsored by Assembly member Lori Saldana and passed into law in 2007. AB 1103 requires owners and operators of nonresidential buildings to disclose a building's energy performance ratings and data to prospective buyers, lessees, or lenders financing the building's sale.
AB 2021	California Assembly Bill 2021(stats. 2006, ch. 734) as codified in Public Resources Code section 25310 and Public Utilities Code section 9615. This bill was sponsored by Assembly member Lloyd Levine and passed into law in 2006. AB 2021 required the Energy Commission to investigate options and develop a plan to improve the energy efficiency and decrease the peak electricity demand of air conditioners in the state. The Energy Commission completed the report in June 2008.
ARRA	American Reinvestment and Recovery Act of 2009
ASHRAE	American Society of Heating, Refrigeration and Air-conditioning Engineers
ASTM	American Society for Testing and Materials
BEARS	Building Energy Asset Rating System
Bidder	A respondent to this RFP
CCM	Commission Contract Manager
CPUC	California Public Utilities Commission
CALBO	California Building Officials
CEUS	Commercial End Use Survey
CLSB	California State Licensing Board

## **I. INTRODUCTION, CONTINUED**

COMNET	Commercial Energy Services Network
CO <sub>2</sub> e	Carbon Dioxide equivalent
CUAC	California Utility Allowance Calculator
DGS	Department of General Services
DVBE	Disabled Veteran Business Enterprise
EAP	Energy Action Plan
Energy Commission	California Energy Commission
Energy IQ	A commercial building energy benchmarking tool available for use on the Internet
EP	Energy Performance
EUI	Energy Use Index, reported in units of kBtu per square feet
HERS II	Home Energy Rating System for existing residential buildings
HVAC	Heating, Ventilation and Air Conditioning
IEPR	Integrated Energy Policy Report
PIER	Public Interest Energy Research program
Proposal	Formal written response to this RFP from Bidder
Retro-commissioning	Also known as existing building commissioning, it is a systematic process that focuses on the operation of mechanical equipment, lighting, and related controls and it is intended to optimize how equipment operates as an integrated system.
RFP	Request for Proposal, this entire document
SEP	State Energy Program
State	State of California
TCAC	Tax Credit Allocation Committee
TDV	Time Dependent Valuation, used as the energy cost metric in the California Building Energy Efficiency Standards
U.S. EPA	United States Environmental Protection Agency

## II. Scope of Work and Deliverables

### ABOUT THIS SECTION

This section describes the contract scope of work, deliverables and due dates under the direction of the CCM.

### BACKGROUND

#### A. Existing Buildings

Since 1978, California has sought to make newly constructed homes energy efficient through Building Energy Efficiency Standards. As a result of these efforts, California has avoided the need to build about 3,000 megawatts (MW) of new electricity generation capacity (or about 6 medium-sized power plants), reducing energy bills and improving the state's economy and environment. Over 40 percent of California's housing stock is more efficient as a result of California's comprehensive Standards program.

However, nearly 60 percent of California's housing stock (and a comparable percentage of California's nonresidential building stock) was built prior to the existence of Building Energy Efficiency Standards. Accordingly, substantial energy efficiency improvements are needed in many of California's existing buildings. These improvements will result in major energy savings that are important to California's economy and environment, particularly due to the air quality and water resource impacts of power plants, energy bill impacts of unnecessary electricity and natural gas use, and California's efforts to mitigate climate change through greenhouse gas (GHG) emission reductions.

#### B. AB 758 Requirements

AB 758 adds section 25943 to the Public Resources Code (PRC) and sections 381.2 and 385.2 to the Public Utilities Code. These sections require the Energy Commission to establish and assess the program, and utility companies to implement energy efficiency programs for residential and nonresidential buildings. PRC section 25943(a)(2) proposes the following program strategies to achieve greater energy efficiency in existing residential and nonresidential structures:

- Energy assessments;
- Building benchmarking;
- Energy rating;
- Cost-effective energy efficiency improvements;
- Public and private sector energy efficiency financing;
- Public outreach and education; and
- Green workforce training.

## **II. SCOPE OF WORK AND DELIVERABLES** CONTINUED

PRC section 25943(c) requires the Energy Commission to consider the following in developing the program:

- The amount of annual and peak energy savings, GHG emission reductions, and projected customer utility bill savings that will accrue from the program;
- The most cost-effective means and reasonable timeframes to achieve the goals of the program;
- The various climate zones within the state;
- An appropriate method to inform and educate the public about the need for, benefits of, and environmental impacts of, the comprehensive energy efficiency program;
- The most effective way to report the building energy assessment and the corresponding energy efficiency improvements to the owner of the residential or nonresidential building, including, among other things, the following:
  - Prioritizing the identified energy efficiency improvements;
  - The payback period or cost-effectiveness of each improvement identified;
  - The various incentives, loans, grants, and rebates offered to finance the improvements;
  - Available financing options including all of the following:
    - i. Mortgages or sales agreement components;
    - ii. On-bill financing;
    - iii. Contractual property tax assessments;
    - iv. Home warranties
- Existing statutory and regulatory requirements to achieve energy efficiency savings and greenhouse gas emission reductions;
- A broad range of implementation approaches, including both utility and nonutility administration of energy efficiency programs; and
- Any other considerations deemed appropriate by the Energy Commission.

PRC section 25943(d) requires the Energy Commission to do the following:

- Minimize the overall costs of establishing and implementing the comprehensive energy efficiency program requirements;
- Ensure, for residential buildings, that the energy efficiency assessments, ratings, or improvements do not unreasonably or unnecessarily affect the home purchasing process or the ability of individuals to rent housing (a transfer of property subject to the program shall not be invalidated solely because of the failure of a person to comply with a provision of the program);
- Ensure, for nonresidential buildings, that the energy improvements do not have an undue economic impact on California businesses;
- Determine, for residential buildings, the appropriateness of the HERS program to support the goals of AB 758 and whether there are a sufficient number of HERS-certified raters available to meet the program requirements;

## II. SCOPE OF WORK AND DELIVERABLES CONTINUED

- Determine, for nonresidential structures, the availability of an appropriate cost-effective energy efficiency assessment system and whether there are a sufficient number of certified raters or auditors available to meet the program requirements;
- Coordinate with the California Workforce Investment Board, the Employment Training Panel, the California Community Colleges, and other entities to ensure a qualified, well-trained workforce is available to implement the program requirements;
- Coordinate with, and avoid duplication of, existing proceedings of the Public Utilities Commission and programs administered by utilities.

The comprehensive program that AB 758 directs is expected to be an ongoing and evolving transformation of the market to deliver the substantial energy savings and GHG emissions reductions inherent in the state's existing residential and nonresidential building stock. PRC section 25943(f) directs the Energy Commission to periodically update the comprehensive program and adopt any revision that, in its judgment, is necessary to improve or refine program requirements after receiving public input. PRC section 25943(h) directs the Energy Commission to report on the status of the comprehensive program in the Energy Commission's biannual Integrated Energy Policy Report and annual supplements.

### C. Residential and Nonresidential Program Components

The program will consist of two separate but coordinated components:

- Development, Implementation and Sustained Delivery of the AB 758 Program for Existing Residential Buildings
- Development, Implementation and Sustained Delivery of the AB 758 Program for Existing Nonresidential Buildings

Although there are similarities between the two components, there are many differences including:

- Types and complexity of the buildings;
- Building occupancy and use patterns;
- Ownership and leasing patterns;
- Building features and equipment types;
- Building size and impact on energy consumption due to the building envelope loads rather than the internal people and equipment loads;
- Sensitivity of the building to its climate;
- Portion of the year that the building is in the cooling rather than heating mode;
- Stakeholder groups (stakeholders usually specialize in one of these types of buildings not both);
- Utility rate structures and tariffs;
- Property value determined by building income rather than comparable buildings;

## II. SCOPE OF WORK AND DELIVERABLES CONTINUED

- Tax treatment of business operating costs;
- Building code regulation and real estate law provisions; and
- The extent to which different types of building and energy professionals are involved in design and operation.

These differences make it a necessity to conduct these two programs as separate initiatives, each with their unique opportunities, stakeholders and constraints.

### 1. Development, Implementation and Sustained Delivery of the AB 758 Program for Existing Residential Buildings

This effort will build on the Energy Commission's recent adoption of the HERS Phase II regulations, establishing standards for the completion of HERS whole-house ratings and energy audits and efforts to pilot the disclosure of HERS ratings at the point-of-sale of homes. It also will build on Energy Commission coordination with the Tax Credit Allocation Committee, moving towards the use of HERS ratings as standard practice in affordable housing programs, particularly at the time of major rehabilitation.

The Energy Commission's work will be especially challenging given the direction of AB 758 that energy efficiency assessments, ratings, or improvements do not unreasonably or unnecessarily affect the home purchasing process or the ability of individuals to rent housing. In particular, the bill's requirement that a transfer of residential property not be invalidated solely because of the failure of a person to comply with a provision of the program creates a constraint on the requirements that the Energy Commission can place at the point-of-sale. Approaches will need to be developed that address the need to disclose ratings at point-of-sale while addressing these limitations in the bill. This will require considerable effort to streamline the rating and improvements process so that it will be fully workable within the real estate transaction process.

The Energy Commission also will need to develop strategies for potentially addressing the completion of ratings at other trigger events in the life of a building, including at the point of refinancing, building alterations, and replacement of appliances and equipment, and utility service changes. The California Association of Realtors has recommended the requirement of ratings and improvements for every California home upon a date certain, for example, within five years of Energy Commission adoption of regulations. All of these approaches will need to be carefully evaluated, considering all of the factors directed by the legislation. The development, rulemaking proceeding and implementation must involve collaboration with the state agencies identified in the bill, and coordination and consideration of the input of the wide range of stakeholders identified in the bill.

## **II. SCOPE OF WORK AND DELIVERABLES** CONTINUED

A major responsibility of the Energy Commission will be the development and ongoing upgrading of building energy assessment tools and protocols. In adopting HERS Phase II, the Energy Commission developed the initial version of the HERS Technical Manual, which prescribes standardized rules for HERS rating software, HERS certificates and supporting reports, utility bill analysis and methods for comparison and cross-validation with building simulations, evaluation of all energy efficiency measures, measure costing, and procedures for prioritizing and evaluating the cost effectiveness and non-energy benefits of measures. The HERS Technical Manual will be a living document, and will need to be revised over time as issues are identified, new measures and technologies come into the forefront, and the rating and building performance contracting industries gain experience and sophistication.

The AB 758 comprehensive programs for energy efficiency in both existing residential and nonresidential buildings would not be complete without strong attention to quality installation of energy efficiency at the point of alteration of existing buildings. This will be accomplished through expanded and more effective achievement of energy efficiency requirements in the Building Energy Efficiency Standards for additions and alterations.

This effort will build on the Energy Commission's emphasis over the past few cycles of updates to the Building Standards on the energy savings potential arising from the very large number of construction projects that occur in remodeling, retrofitting, rehabbing, renovating, replacing equipment at the end of its useful life, and upgrading to make tenant improvements that together are alterations to existing residential and nonresidential buildings. California contractor licensing and building code law requires contractors to obtain building permits and meet Standards requirements to make those alterations energy efficient.

It is critical that California overcome the major problem of contractors bypassing requirements to obtain building permits and meet code. This effort will build on the Energy Commission's identification of these problems for the Energy Commission's AB 2021 report<sup>1</sup> and the actions taken since then to work with key stakeholders whose industry has responsibility for this problem or who strongly are impacted by the negative consequences of this problem.

The Energy Commission will also need to continue to work with the Contractors State License Board and the California Building Officials (CALBO) to find ways to cause builders to obtain permits and comply with the standards, including the development and piloting of online building permitting, and active engagement in identification of contractors who fail to obtain permits and comply, so that

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<sup>1</sup> AB 2021 (Chapter 734, Statutes of 2006) required the Energy Commission to investigate options and develop a plan to improve the energy efficiency and decrease the peak electricity demand of air conditioners in the state. The Energy Commission completed the report in June 2008.



## **II. SCOPE OF WORK AND DELIVERABLES CONTINUED**

those contractors can be disciplined. This effort also should address other recommendations of the AB 2021 report, including expanded training of contractors in quality installation practices and dissemination of public information to consumers to make them aware of the benefits of quality installation, the consequences of unlawful contractor practices and noncompliance, and approaches to identify and employ contractors who are conscientious and deliver verified quality in their work.

This effort will directly support the Governor's commitment, as a condition for the state receiving ARRA SEP funding, to carry out plans to achieve a high level of compliance with the Building Energy Efficiency Standards for alterations.

### **2. Development, Implementation and Sustained Delivery of the AB 758 Programs for Existing Nonresidential Buildings**

This effort will build upon the Energy Commission's efforts to introduce benchmarking and building rating and labeling into California. It will build on work that the Energy Commission has done under the Public Interest Energy Research (PIER) program to develop a California specific benchmarking tool, and the effort the Energy Commission has initiated to develop regulations to implement AB 1103 (Chapter 533, Statutes of 2007) and AB 531 (Chapter 323, Statutes of 2009), which require the benchmarking of all existing California nonresidential buildings on a time schedule established by the Energy Commission.

It also will build upon recent collaboration the Energy Commission has begun with national experts planning the development of nonresidential building rating and labeling tools and programs, which will include both operational ratings (like today's benchmarking programs, which compare the energy consumption of similar buildings which is driven by their operation) and asset ratings (similar to a HERS rating, which compares the level of energy efficiency built into the building due to its physical characteristics (assets)). This two-pronged rating approach is modeled after the European Union's 2003 Energy Performance of Buildings Directive, which each European country is in the process of implementing to provide required ratings and labels for every existing building.

This effort also will build upon the Energy Commission's efforts to introduce retro-commissioning of nonresidential buildings into California, including PIER's development of the California Commissioning Guide for Existing Buildings and the Energy Commission's long-standing sponsorship and support of the California Commissioning Collaborative.

The Energy Commission's work will be especially challenging given the direction of AB 758 to establish the availability of appropriate and cost-effective

## **II. SCOPE OF WORK AND DELIVERABLES CONTINUED**

rating and labeling tools and to ensure that the energy improvements do not have an undue economic impact on California businesses.

A major responsibility of the Energy Commission, which was emphasized in AB 758, will be the development and ongoing upgrading of building energy assessment tools and protocols. While the residential program effort already benefits from the initial version of the HERS Technical Manual, the development of counterpart systems for the commercial program will be the Energy Commission's first order of business, and will be extremely challenging to accomplish. In particular the development of a California rating and labeling tool to establish asset ratings is new ground that will require Energy Commission innovation and commitment. An effective California rating and labeling program will need to address all of the considerations that the Energy Commission needed to confront in developing the HERS Phase II program, recognizing that nonresidential buildings and their energy systems and equipment are inherently much more diverse and complex than those in residential buildings.

The Energy Commission must develop, implement and sustain the delivery of a program that meets the AB 758 requirement of not having an undue economic impact on California business, collaborate with the unique set of state agencies that have responsibility for and influence over the key real estate and financial transactions where energy efficiency is important to building investment decision making, and coordinate and consider the input of the wide range of stakeholders identified in the bill that impact this sector's buildings.

The Nonresidential Program also will require strong attention to quality installation of energy efficiency at the point of alteration of existing buildings through expanded and more effective achievement of energy efficiency requirements in the Building Energy Efficiency Standards for additions and alterations. In addition to the extensive replacement of equipment in nonresidential buildings, each year there are a significant number of tenant improvements, where a commercial tenant moves into buildings or parts of buildings that were previously occupied by a commercial enterprise whose business was serving another function. Tenant improvements are remodeling projects to reconfigure, furnish or equip the building or space to suit the needs of the new tenant. Often these tenant improvements can be extensive and call for alterations of the energy features in compliance with the Standards.

While the problem of failure of contractors to pull permits and comply with the Standards may be less severe for nonresidential buildings, because building owners have more to lose in risking unlawful activity, the problem also exists with nonresidential alterations. The Energy Commission has recently updated its Standards to call for cool roofs at the time of reroofing to reduce air conditioning needs. Reroofing is an example of alterations where there is a significant problem with nonresidential contractors failing to pull permits and

## II. SCOPE OF WORK AND DELIVERABLES CONTINUED

comply with the Standards. Lessons learned from developing and implementing a program to increase pulling permits for HVAC will be extended to addressing similar problems related to reroofing for nonresidential buildings.

### D. The American Recovery and Reinvestment Act of 2009 (ARRA)

Congress enacted ARRA to promote economic recovery, spur technological advances, and invest in environmental protection. The U.S. Department of Energy has awarded the Energy Commission \$226 million in ARRA funding for the State Energy Program (SEP). ARRA-funded SEP programs include the following:

- The **California Clean Energy Workforce Training Program**, which supports the development of a green job workforce and involves collaboration between the Energy Commission, the California Employment Development Department, the California Employment Training Panel, and the California Workforce Investment Board;
- The **Municipal Financing Program**, which supports the establishment of city and county programs that allow property owners to repay loans for retrofits through voluntary property bill assessments;
- The **California Comprehensive Residential Building Retrofit Program**, which supports energy retrofits in existing residential buildings; and
- The **Municipal and Commercial Building Targeted Measure Retrofit Program**, which supports energy retrofits in existing municipal and commercial buildings.

These programs, scheduled to end in April 2012, will provide valuable information about the viability of approaches proposed in AB 758. The Energy Commission will integrate the most successful aspects of the SEP programs into the program.

An additional connection between ARRA and AB 758 mandates is the Governor's requirement of a plan (as a condition of receiving ARRA SEP funding) to achieve compliance with Building Energy Efficiency Standards over the next eight years.

## GENERAL REQUIREMENTS OR GOALS AND OBJECTIVES

The general requirements of this Scope of Work is to provide technical support to the Commission for the purposes of developing both voluntary and mandatory statewide programs to improve the energy efficiency of existing residential and commercial buildings.

## PRIMARY TASKS

This is a "work authorization" Agreement and no work shall be undertaken unless authorized by the CCM through a specific written document called a "work authorization". Attachment 10 of this RFP is a sample of a work authorization.

## II. SCOPE OF WORK AND DELIVERABLES CONTINUED

The CCM will prepare and issue the written work authorizations and may set a maximum price, budget, and schedule for the work to be performed. The CCM will work, in consultation with the Contractor, to assign work to either the Contractor or a subcontractor. The Energy Commission reserves the right to direct the Contractor to increase expertise on any particular task or key topic area by soliciting for additional subcontractors.

**Work Guarantee.** The Energy Commission does not guarantee any minimum or maximum amount of work under the Agreement.

**Program meetings and briefings.** At the request of the CCM, the Contractor shall be available for meetings or to provide written and/or verbal program briefings to the Energy Commission staff or others.

The major categories of work in this Agreement are divided into the following tasks:

Task #	Task	Estimated Level of Effort
1	Residential Needs Assessment	2%
2	Nonresidential Needs Assessment	2%
3	Home Energy Rating System	7%
4	Building Energy Asset Rating System	15%
5	Residential Rating and Disclosure Programs	12%
6	Residential Efficiency Improvement Programs	15%
7	Affordable Housing	5%
8	Nonresidential Rating and Disclosure Programs	12%
9	Nonresidential Efficiency Improvement Programs	15%
10	Compliance and Enforcement	2%
11	Measurement, Verification and Evaluation	5%
12	Contingencies and Additional Topic Areas	3%
13	Contract Management	5%

*Note: All workshops and hearings are sponsored, organized, and facilitated by the California Energy Commission.*

### TASK 1: RESIDENTIAL NEEDS ASSESSMENT

The Contractor shall review all relevant efficiency program materials and interview known experts including Commission staff on the topics required to develop a comprehensive program to improve the energy efficiency of existing residential buildings. The subject areas expected to be covered in this assessment include but are not limited to:

- Public awareness of energy use, costs and environmental consequences, in addition to available energy efficiency programs (including financing)
- Public readiness to receive new messaging for comprehensive retrofit programs

## **II. SCOPE OF WORK AND DELIVERABLES** CONTINUED

- Financing options available to consumers
  - ARRA-funded initiation of municipal financing programs
  - Emerging national financing initiatives to advance energy efficient mortgage financing
- Workforce development
  - ARRA-funded Clean Energy Workforce Training programs
  - Workforce training included in ARRA SEP programs
  - Utility training programs
- Building science research to advance effective technologies and strategies, in order to improve the cost-effectiveness of home energy ratings and comprehensive retrofits
- Rating home energy performance
  - Known HERS II issues
  - Needs for energy system benchmarks
  - Development and support of public goods rating software tools, algorithms and reference data
  - Research into new methods to rate home energy performance, such as data-driven modeling or other applicable approaches
  - Needs for web-based interfaces to rating software
- Energy audits
  - Options to reduce costs of building performance contracting
  - Integration of specialty contractors into HERS II programs
  - Utility bill-based calibration of HERS II model
  - Developing retrofit recommendations and prioritizations
- Comprehensive retrofits
  - ARRA-funded California Comprehensive Residential Retrofit Programs
  - Utility funded retrofit programs
  - Relevant program models – examples from other regions or nations
- Partnering opportunities to develop and implement the program
- Measurement, verification and evaluation for the residential component of the program
  - Opportunities to leverage the ARRA Measurement and Verification Program

The Contractor will use the results of the needs assessment to develop Work Authorizations as necessary to complete Tasks 3, 5, 6, 7, 10 and 11 for residential buildings.

Deliverables:     Residential Needs Assessment Report  
                         Draft and Final Work Authorizations

### **TASK 2: NONRESIDENTIAL NEEDS ASSESSMENT**

The Contractor shall review all relevant efficiency program materials and interview known experts including Commission staff on the topics required to develop a comprehensive program to improve the energy efficiency of existing nonresidential

## **II. SCOPE OF WORK AND DELIVERABLES** CONTINUED

buildings. The subject areas expected to be covered in this assessment include but are not limited to:

- Building industry awareness of energy use, costs and environmental consequences; building industry awareness of available energy efficiency programs, including financing
- Building industry readiness to receive new messaging for comprehensive retrofit programs;
- Financing options available to businesses
  - ARRA-funded initiation of municipal financing programs
  - On-bill financing offered from utilities
- Workforce development
  - ARRA-funded Clean Energy Workforce Training programs
  - Workforce training included in ARRA SEP programs
  - Utility training programs
  - Professional trade training and apprenticeships
- Building science research to advance effective technologies and strategies, in order to improve the cost-effectiveness of building energy ratings and comprehensive retrofits
- Rating the energy performance of nonresidential buildings
  - Asset ratings for existing buildings
  - Operational ratings
    - Lessons learned from the implementation of AB 1103
  - Disclosure due diligence in financial transactions
    - American Society for Testing and Materials (ASTM) Energy Performance Disclosure Standard
    - Public Interest Energy Research (PIER) Project – field completion of checklist to be used in performance disclosure processes
  - Identifying the assets and operational characteristics of energy systems
    - Energy Performance (EP) Label project
    - Energy IQ
  - Training and certification of Energy Assessors
    - Commercial Energy Services Network (COMNET)
  - Development and support of public goods rating software tools, algorithms and reference data
- Energy Audits
  - Audit models employed in ARRA-funded programs
  - Level of effort required to assess relative energy performance compared to that needed to identify potential improvements
  - Issues with effectively addressing the broad variation of energy system complexity in the commercial building sector
  - Consistency of different Energy Auditor certification programs
- Retro-commissioning
  - Progress and remaining issues, as identified by the California Commissioning Collaborative
- Continuous improvement

## **II. SCOPE OF WORK AND DELIVERABLES CONTINUED**

- Use of building specific benchmarks and performance monitoring
- Integrating efficient operational practices into different classes and sizes of businesses
- Voluntary efficiency improvement programs sponsored by California utilities
- Partnering opportunities for the development and implementation of the nonresidential component of the program
- Measurement, verification and evaluation for the nonresidential component of the program
  - Opportunities to leverage the ARRA Measurement and Verification Program

The Contractor will use the results of the needs assessment to develop Work Authorizations as necessary to complete Tasks 4, 8, 9, 10 and 11 for nonresidential buildings.

Deliverables: Nonresidential Needs Assessment Report  
Draft and Final Work Authorizations

### **TASK 3: HOME ENERGY RATING SYSTEM**

The Contractor shall:

- Provide building science research and analysis to address HERS II implementation issues that arise in the ARRA SEP residential retrofit programs or the comprehensive retrofit programs funded by the utilities
- Support the Commission in completing updates and/or developing clarifications to the HERS II Technical Manual on an as-needed basis
- Implement improvements and/or additions to the public goods HERS II modeling algorithms and data libraries to support the HERS II Technical Manual updates and/or clarifications
- Develop technical guidelines, tutorials and other information for retrofit contractors as new areas of required knowledge in comprehensive residential retrofits are identified
- Complete work identified in the Task 1 Residential Needs Assessment related to the Home Energy Rating System

Deliverables: Draft and Final Work Authorizations

### **TASK 4: BUILDING ENERGY ASSET RATING SYSTEM**

The Contractor shall support the Commission in the development of the Building Energy Asset Rating System (BEARS) for California nonresidential buildings. The work in this task will focus on the technical details of assessing the relative energy performance of nonresidential building properties. The Contractor shall complete work identified in Task 2 Nonresidential Needs Assessment related to the Building Energy Asset Rating System. The work in this task is expected to include but not be limited to the following:

## II. SCOPE OF WORK AND DELIVERABLES CONTINUED

- Collaborating with National performance rating organizations (e.g. COMNET, U.S. EPA, ASHRAE) and performance data disclosure standards organizations (e.g. ASTM)
- Learning from the experiences of the asset rating standards setting and implementation organizations in Europe, Australia and China
- Developing field assessment protocols
  - Identifying commonalities between energy performance assessments and retro-commissioning and energy audit processes
  - Specifying the field data required to construct asset building models
  - Determining the appropriate amount of physical testing of building energy systems that should be required
- Establishing energy system benchmarks, using Commercial End Use Survey (CEUS) and industry-developed data
- Determining the BEARS rating scale and graphical representation
  - Representing current practice on the scale, either with building stock medians or current design code-based energy budgets
  - Selecting the performance metrics (e.g. TDV, CO<sub>2</sub>e, EUI, renewable energy generation) to report and determining how to include them on the BEAR rating certificate
  - Determining the appropriate graphical representation of the BEARS rating scale, such as a continuous but differentiated bar (e.g. HERS) or discrete categories (e.g. the United Kingdom's Energy Performance Certificate, ASHRAE's Building EQ)
- Specifying performance rating software requirements
  - Reviewing COMNET Standards
  - Incorporating COMNET Standards as appropriate
  - Developing additional specifications as needed
- Developing, collecting, organizing and creating web-based interfaces to software algorithms and data libraries that meet the performance rating software requirements
- Developing performance rating software test criteria
- Developing training curricula and certification requirements for Energy Assessors
- Piloting BEARS implementation in California buildings

The Contractor shall incorporate the developed standards, specifications and additional explanations that describe the processes required to complete an asset rating for an existing nonresidential building in the BEARS Technical Manual. When the CCM has reviewed and approved the draft BEARS Technical Manual, or sooner if the CCM deems it appropriate, the CCM and the Contractor shall agree to a strategy for accepting public comments on the draft BEARS Technical Manual. This may include one or more public workshops as well as public comments received through mail, emails, and phone calls. The Contractor shall work with the CCM to address these public comments in a final version of the BEARS Technical Manual.

Deliverables: Draft BEARS Technical Manual



## **II. SCOPE OF WORK AND DELIVERABLES CONTINUED**

Final BEARS Technical Manual

Others to be defined as needed through Work Authorizations

### **TASK 5: RESIDENTIAL RATING AND DISCLOSURE PROGRAMS**

The Contractor shall support the Commission in the development of voluntary and mandatory residential rating and disclosure programs. The Contractor shall complete work identified in Task 1 Residential Needs Assessment related to residential rating and disclosure programs. The work in this task is expected to include but not be limited to the following:

- Identifying the issues and leverage opportunities derived from the California Comprehensive Residential Retrofit Programs and utility whole house retrofit programs
- Developing strategies to increase public awareness of home energy performance ratings and disclosures
- Developing training curricula for raters and contractors to implement HERS II programs
- Specifying training and certification requirements for raters and contractors
- Creating a database for home performance rating results
- Researching options for rating disclosures at time of sale that do not adversely impact the real estate transaction schedule
- Developing guidelines for voluntary residential rating and disclosure programs at time of rent or sale
- Piloting voluntary residential rating and disclosure programs
- Developing requirements for mandatory residential rating and disclosure programs such as time of rent or sale rating disclosures, rating disclosures at other appropriate trigger points, or date certain rating disclosures
- Supporting the rulemaking proceedings conducted by the Commission to adopt mandatory residential rating and disclosure regulations

Deliverables: Draft and Final Work Authorizations

### **TASK 6: RESIDENTIAL EFFICIENCY IMPROVEMENT PROGRAMS**

The Contractor shall support the Commission in the development of voluntary and mandatory residential efficiency improvement programs. The Contractor shall complete work identified in Task 1 Residential Needs Assessment related to residential efficiency improvement programs. The work in this task is expected to include but not be limited to the following:

- Researching options for efficiency improvements at time of sale that do not adversely impact the real estate transaction schedule
- Developing guidelines for voluntary residential efficiency improvement programs at time of sale
- Documenting and publicizing all available and appropriate financing options
- Piloting voluntary residential efficiency improvement programs

## **II. SCOPE OF WORK AND DELIVERABLES CONTINUED**

- Developing requirements for mandatory residential efficiency improvement programs such as time of sale improvements, improvements at other appropriate trigger points, or date certain improvements
- Supporting the rulemaking proceedings conducted by the Commission to adopt mandatory residential efficiency improvement regulations

Deliverables: Draft and Final Work Authorizations

### **TASK 7: AFFORDABLE HOUSING**

The Contractor shall support the Commission in reducing the barriers to efficiency financing and tax credits for newly constructed affordable housing. The Contractor shall complete work identified in Task 1 Residential Needs Assessment related to affordable housing. The work in this task is expected to include but not be limited to the following:

- Extending the California Utility Allowance Calculator (CUAC) to be usable for federal and state tax credits for major rehabilitation projects and other financing administered by local housing authorities
- Developing requirements in conjunction with TCAC and other state and local housing agencies for energy efficiency and onsite renewable generation as a condition of subsidization for affordable housing projects
- Developing protocols and procedures for HERS ratings that specifically address the unique characteristics and equipment found in both high-rise and low-rise multi-family buildings that predominate in affordable housing
- Modifying the CUAC for use in retrofitting existing multi-family buildings

Deliverables: Draft and Final Work Authorizations

### **TASK 8: NONRESIDENTIAL RATING AND DISCLOSURE PROGRAMS**

The Contractor shall support the Commission in the development of voluntary and mandatory nonresidential rating and disclosure programs. The Contractor shall complete work identified in Task 2 Nonresidential Needs Assessment related to nonresidential rating and disclosure programs. The work in this task is expected to include but not be limited to the following:

- Identifying the issues and leverage opportunities derived from the implementation of AB 1103 and utility-sponsored operational benchmarking programs
- Developing strategies to increase building industry awareness of nonresidential energy performance ratings and disclosures
- Developing training curricula for Energy Assessors to implement BEARS programs
- Specifying training and certification requirements for Energy Assessors
- Creating a database for building performance rating results
- Developing guidelines for voluntary nonresidential rating and disclosure programs such as time of building space leasing
- Piloting voluntary nonresidential rating and disclosure programs

## **II. SCOPE OF WORK AND DELIVERABLES CONTINUED**

- Developing requirements for mandatory nonresidential rating and disclosure programs such as at time of building space leasing or building sale, rating disclosures at other appropriate trigger points, and/or date certain rating disclosures
- Supporting the rulemaking proceedings conducted by the Commission to adopt mandatory nonresidential rating and disclosure regulations

Deliverables: Draft and Final Work Authorizations

### **TASK 9: NONRESIDENTIAL EFFICIENCY IMPROVEMENT PROGRAMS**

The Contractor shall support the Commission in the development of voluntary and mandatory nonresidential efficiency improvement programs. The Contractor shall complete work identified in Task 2 Nonresidential Needs Assessment related to nonresidential efficiency improvement programs. The work in this task is expected to include but not be limited to the following:

- Developing guidelines for voluntary nonresidential efficiency improvement programs such as time of sale improvements
- Documenting and publicizing all available and appropriate financing options
- Piloting voluntary nonresidential efficiency improvement programs
- Developing requirements for mandatory nonresidential efficiency improvement programs such as time of sale improvements, improvements at other appropriate trigger points, or date certain improvements
- Supporting the rulemaking proceedings conducted by the Commission to adopt mandatory nonresidential efficiency improvement regulations

Deliverables: Draft and Final Work Authorizations

### **TASK 10: CA ENERGY CODE COMPLIANCE AND ENFORCEMENT**

The Contractor shall support the Commission's collaborations with CALBO, CSLB and the investor-owned utilities to develop simplified streamlined, online or fax back building permitting processes for alterations of existing residential buildings, starting with quality installation of HVAC replacement equipment. The Contractor shall complete work identified in the Task 1 and 2 needs assessments related to energy code compliance and enforcement. The work in this task is expected to include but not be limited to the following:

- Recruiting several local building departments to complete pilot implementation of simplified permitting processes
- Preparing and distributing media and outreach materials to contractors, building departments and consumers
- Monitoring pilots to refine the processes and identify benefits and lessons learned

## **II. SCOPE OF WORK AND DELIVERABLES CONTINUED**

- Developing actions to encourage the remaining 530 building departments statewide to implement the simplified permitting processes for alterations and apply to other measures beyond HVAC

Deliverables: Draft and Final Work Authorizations

### **TASK 11: PROGRAM MEASUREMENT, VERIFICATION AND EVALUATION**

The Contractor shall develop approaches to periodically evaluate and make recommendations to improve the effectiveness of the program. The Contractor shall complete an AB 758 Evaluation Plan that outlines the methods, scope and schedule for the program evaluations. The Contractor shall complete work identified in the Task 1 and 2 needs assessments related to program measurement, verification and evaluation. The work in this task is expected to include but not be limited to the following:

- Establishing baselines of energy use by building type, location and vintage
- Developing and integrating methods to collect necessary data for program evaluation into program delivery processes
- Completing program impact evaluations
- Completing program process evaluations

Deliverables: AB 758 Evaluation Plan  
Draft and Final Work Authorizations

### **TASK 12: CONTINGENCIES AND ADDITIONAL TOPIC AREAS**

The Contractor shall assist with work to develop program components beyond what is specifically described in Tasks 1-11. The Contractor shall provide technical expertise to conduct unexpected research and analytic needs to develop program components as they arise throughout the Agreement period.

Deliverables: Draft and Final Work Authorizations

### **TASK 13: CONTRACT MANAGEMENT**

#### **Kickoff Meeting**

The Contractor shall attend a “kick-off” meeting with the CCM, Contracts Officer, and the Accounting Office. The Contractor’s Project Manager, Contract Administrator, and Accounting Officer shall attend this meeting. The administrative and technical aspects of this contract will be discussed.

## **II. SCOPE OF WORK AND DELIVERABLES** CONTINUED

### **Invoices**

The Contractor shall prepare a monthly invoice for all Agreement expenses performed for assigned work authorizations. An advance copy of the invoice shall be sent to the CCM to ensure that all records are included and the invoice is for authorized work. The official invoice is to be submitted to the Commission Accounting Office. The CCM will specify the invoice format.

### **Monthly Progress Reports**

The goal of this task is to periodically verify that satisfactory and continued progress is made towards achieving the objectives of the project. This task includes mandatory reporting activities for ARRA SEP programs.

#### **The Contractor shall:**

- Prepare a monthly progress report which summarizes all activities conducted by the Contractor and their subcontractors. This monthly progress report shall include a summary of Agreement expenditures to date. The monthly progress report is due to the CCM within 3 working days after the end of the month. The CCM will specify the report format and the number of copies to be submitted. All monthly progress reports will coincide with the invoice period.

#### **Deliverables:**

- Monthly Progress Reports

### **Final Report**

The goal of this task is to prepare a comprehensive written Final Report that describes the original purpose, approach, results and conclusions of the work done under this contract. The CCM will review and approve the Final Report. The Final Report must be completed on or before the termination date of the contract.

### Program Meetings and Briefings

At the request of the CCM, the Contractor and its subcontractors shall be available for meetings or to provide written and/or verbal program briefings to the Energy Commission's staff or others. Some meetings will be conducted in person, by phone and the internet, as determined by the CCM.

### Manage Work Authorizations and Subcontractors

In the event subcontractors are part of the contractor's proposal, the contractor shall manage and coordinate subcontractor activities. The Contractor is responsible for the quality of all subcontractor work and the Commission will assign all work to the contractor. If new subcontractors are added, the contractor shall notify the CCM who will follow the Energy Commission's process for adding or replacing subcontractors.

## **II. SCOPE OF WORK AND DELIVERABLES** CONTINUED

At the direction of the CCM, the Contractor shall issue Energy Commission prepared work authorizations which define the scope of work, the schedule of deliverables and the project budget to the subcontractors.

On an ongoing basis the Contractor shall perform the following tasks:

- Prepare and issue contract agreements with subcontractors that include all required provisions contained in the Agreement between the Energy Commission and the Contractor;
- Respond in a timely fashion to information requests or direction from the CCM;
- Coordinate availability of subcontractors to meet needs of the Energy Commission staff;
- Solicit for additional technical expertise upon direction by the CCM;
- Require subcontractors to provide invoices which correctly identify personnel, actual hourly rates and direct expenses charged to each work authorization and provide back-up documentation for expenses; and
- Maintain a current Agreement spreadsheet capable of tracking Contractor and subcontractor work activity, Contractor and subcontractor invoice activity, and the status of work authorizations.

Deliverables:     Monthly Progress Reports

### **“Work within the United States**

Consistent with the goals of ARRA, all SEP-funded work must be performed within the United States or its territories. No SEP funds may be expended under the contract let by this RFP for work performed outside the United States or its territories.”

## II. SCOPE OF WORK AND DELIVERABLES CONTINUED

### DELIVERABLES AND DUE DATES

Task #	DELIVERABLES	TENTATIVE DUE DATES
1	Residential Needs Assessment Report Work Authorizations	Dec 2010  Periodically throughout Agreement
2	Nonresidential Needs Assessment Report Work Authorizations	Dec 2010  Periodically throughout Agreement
3	Specified through Work Authorizations	As directed by CCM
4	Draft BEARS Technical Manual Final BEARS Technical Manual Specified through Work Authorizations	Dec 2011 May 2012 As directed by CCM
5	Specified through Work Authorizations	As directed by CCM
6	Specified through Work Authorizations	As directed by CCM
7	Specified through Work Authorizations	As directed by CCM
8	Specified through Work Authorizations	As directed by CCM
9	Specified through Work Authorizations	As directed by CCM
10	Specified through Work Authorizations	As directed by CCM
11	AB 758 Evaluation Plan Specified through Work Authorizations	Dec 2010  As directed by CCM
12	Specified through Work Authorizations	As directed by CCM
13	Monthly Progress Reports	Monthly throughout the Agreement

## **III. Evaluation Process and Criteria**

### **ABOUT THIS SECTION**

This section explains how the proposals will be evaluated. It describes the evaluation stages, preference points, and scoring of all proposals. A Bidder's proposal will be evaluated and scored based on its response to the information requested in this RFP.

During the evaluation and selection process, the Energy Commission may interview a Bidder either by telephone or in person at the Energy Commission for the purpose of clarification and verification of information provided in the proposal. However, these interviews may not be used to add or change the contents of the original proposal.

The entire evaluation process from receipt of proposals to the posting of the Notice of Proposed Award is confidential.

### **PROPOSAL EVALUATION**

To analyze all Proposals, the Energy Commission will organize an Evaluation Committee. The identity of the evaluators will be kept confidential during the evaluation and selection process. The Energy Commission reserves the right to solicit technical input from other internal and external sources. This technical input may be utilized by the Evaluation Committee during the evaluation of the proposals. The Proposals will be analyzed in two stages:

#### **Stage One: Administrative and Completeness Screening**

After the period has closed for the receipt of proposals, each proposal received prior to the time and date set for receipt of proposals is opened and examined by the Contracts Office to determine compliance with the RFP administrative requirements and the grounds for rejection. If a proposal is not rejected for reasons stated in the Grounds for Rejection, it may still be rejected if it does not meet the proposals format requirements or the minimum administrative requirements.

Proposals that fail Stage One will be disqualified and eliminated from further evaluation.

#### **Stage Two: Technical Evaluation of Proposals**

Proposals passing Stage One will be submitted to the Evaluation Committee to score proposals based on the Evaluation Criteria in this Section. The Evaluation Committee may, at its discretion, seek clarification of any point in the written technical proposal through a clarification interview with the Bidder. All Preferences will be applied, if applicable, to all proposals attaining a minimum technical score of 70 points or more. Proposals not attaining a minimum technical score of 70 points or more shall not be eligible for award.



### III. EVALUATION PROCESS AND CRITERIA CONTINUED

#### Notice of Proposed Award

The contract shall be awarded to the responsible Bidder with the highest combined score that meets all minimum program requirements specified by this RFP. Subsequent to the Proposal evaluations, the Energy Commission will post a "Notice of Proposed Award" at the Commission's headquarters in Sacramento, and on the Commission's Web Site.

#### Scoring Scale

The Evaluation Committee will give a score from zero (0) to ten (10) for each criterion described below. Each score will then be multiplied by a weighing factor to obtain the total points for that criterion. The point calculations for a given proposal will reflect the averages of the combined scores of all Evaluation Committee members.

#### **HOW THE PROPOSAL WILL BE SCORED**

The Evaluation Committee will award points for the technical criteria based on the following considerations.

#### Point Scale

0-1 Points	<ul style="list-style-type: none"><li>✓ The response is not in substantial accord with the RFP requirements.</li><li>✓ Has a potential significant effect on the amount paid or net cost to the State or the quality or quantity of the product and/or service.</li><li>✓ Provides an advantage to one competitor over the other competitors. For example, not paying minimum wages.</li></ul>
2-4 Points	<ul style="list-style-type: none"><li>✓ The proposal states a requirement, but offers no explanation of how or what will be accomplished.</li><li>✓ Proposal does not completely respond to the criteria. Information presented does not provide a good understanding of Bidder's intent, does not give detailed information requested by the RFP, or does not adequately support the proposal.</li><li>✓ The response contains a technical deficiency which is an inaccurate statement or reference concerning the how, what, where, or when, which is part of an overall statement or description.</li></ul>
5-6 Points	<ul style="list-style-type: none"><li>✓ Satisfies the minimum requirements and describes generally how and/or what will be accomplished.</li><li>✓ Provides an average understanding of the Bidder's response to the RFP.</li></ul>
7-8 Points	<ul style="list-style-type: none"><li>✓ Response satisfies the minimum requirements and specifically describes how and/or what will be accomplished in an exemplary manner, using sample products and illustrative materials (i.e. diagrams, charts, graphs, etc.).</li><li>✓ A response which gives a clear and detailed understanding of the Bidder's intent. Response presents a persuasive argument supporting the proposal.</li></ul>

### III. EVALUATION PROCESS AND CRITERIA CONTINUED

9-10 Points	<ul style="list-style-type: none"><li>✓ Exceeds the minimum requirements and specifically describes how and/or what will be accomplished in a superior manner, both quantitatively and qualitatively, using sample products and illustrative materials (i.e., diagrams, charts, graphs, etc.).</li><li>✓ Outstanding response with clear, detailed and relevant information exceeding the information requested. Response presents a compelling argument supporting the proposal.</li></ul>
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The Evaluation Committee will award points for the cost criteria based on the following considerations.

#### Bidder Response to a Hypothetical Work Authorization

The Bidder shall complete the budget forms included in Attachment 10. The budget proposed for this hypothetical work authorization will be evaluated based on two cost criteria:

1. Relative Ratio of Bidder Direct and Indirect Costs

The costs proposed for the hypothetical work authorization will be compared on the basis of direct versus indirect costs. Direct costs are those allocated to direct labor for Bidder personnel and subcontractors. Indirect costs are those allocated to fringe benefits, indirect overhead, G&A and profit for Bidder personnel and subcontractors. The Evaluation Committee will establish a ratio of direct costs to indirect costs for each Bidder, then assign points for this evaluation criterion based on how the cost ratios compare to (1) other Bidders in this RFP, and (2) typical practice as determined by past technical support contracts issued by the Energy Commission. Points for this cost criteria will be assigned based on the following:

0-1 Points	Ratio of direct to indirect costs is significantly worse (smaller) than other Bidders in this RFP and other Energy Commission technical support contractors
2-4 Points	Ratio of direct to indirect costs is slightly worse (smaller) than other Bidders in this RFP and other Energy Commission technical support contractors
5-6 Points	Ratio of direct to indirect costs is comparable to other Bidders in this RFP and other Energy Commission technical support contractors
7-8 Points	Ratio of direct to indirect costs is slightly better (larger) than other Bidders in this RFP and other Energy Commission technical support contractors
9-10 Points	Ratio of direct to indirect costs is significantly better (larger) than other Bidders in this RFP and other Energy Commission technical support contractors

2. Appropriateness of Proposed Budget

The proposed budget will be evaluated on the extent to which:

### **III. EVALUATION PROCESS AND CRITERIA CONTINUED**

- (a) The budget information provided is consistent with the scope of work described in the hypothetical work authorization and itemizes reasonable costs for personnel, subcontractors, equipment, operating expenses, fees, etc.;
- (b) The budget is itemized in sufficient detail to justify the expenditures. The budget includes the required information for personal services, subcontractors, operating expenses, fees, and total expenditures;
- (c) The budget shows that key personnel and subcontractors will be committed to the project for the appropriate number of hours and functions to accomplish the activities described in the hypothetical work authorization; and
- (d) The funds requested are appropriate, relative to the task activities described in the hypothetical work authorization.

The point scale described above for the technical criteria will be used by the Evaluation Committee to assign points to this cost criterion.

#### **RANKING A PROPOSAL**

After each proposal is scored, it will be placed on a list, in rank order, with the highest scoring proposal placed first and the remainder in descending order based on score.

### III. EVALUATION PROCESS AND CRITERIA CONTINUED

#### CRITERIA FOR EVALUATION

Criteria	Key Elements	Weight	Point Total
<b>1. Company / Team Organization</b>	<ul style="list-style-type: none"> <li>a. Team management structure</li> <li>b. Organization administrative structure</li> <li>c. Appropriate level and type of staffing</li> <li>d. Accessibility to the Energy Commission</li> <li>e. Approach to contract management</li> <li>f. Ability to effectively and efficiently recruit additional subcontractors in response to Commission direction</li> </ul>	2	20
<b>2. Experience and Qualifications</b>	<ul style="list-style-type: none"> <li>a. Specific knowledge and experience concerning each work statement task</li> <li>b. Demonstrated ability to organize and manage technical experts to effectively complete work statement tasks and deliverables in a timely manner</li> <li>c. Efficiency and effectiveness of proposed approaches to address topic areas not anticipated by this RFP</li> </ul>	2.5	25
<b>3. Approach to Work Statement and Methodology</b>	<ul style="list-style-type: none"> <li>a. Consistency with Work Statement emphasis and priorities</li> <li>b. Thoroughness and clarity of proposal</li> <li>c. Demonstrated experience with similar tasks</li> <li>d. Demonstrated understanding of Scope of Work tasks</li> <li>e. Ability to effectively modify approach to work to respond to Commission work authorization direction</li> </ul>	2.5	25
<b>Total Technical Score (Maximum Points)</b>			<b>70</b>
<b>4. Relative Ratio of Bidder Direct and Indirect Costs</b>	<ul style="list-style-type: none"> <li>a. As compared to other Bidders in this RFP and typical practice as defined by other Energy Commission technical support contractors</li> </ul>	1.5	15
<b>5. Appropriateness of Proposed Budget</b>	<ul style="list-style-type: none"> <li>a. Budget is consistent with the scope of work described in the hypothetical work authorization</li> <li>b. Budget is itemized in sufficient detail to justify the expenditures</li> <li>c. Budget shows appropriate allocation of personnel and subcontractors to accomplish the activities described in the hypothetical work authorization</li> <li>d. The funds requested are appropriate, relative to the task activities described in the hypothetical work authorization</li> </ul>	1.5	15
<b>Total Cost Score (Maximum Points)</b>			<b>30</b>
<b>OVERALL TOTAL SCORE (Maximum Points)</b>			<b>100</b>
<b>MINIMUM PASSING SCORE</b>			<b>70</b>

### **III. EVALUATION PROCESS AND CRITERIA CONTINUED**

#### **Preference Points**

A Bidder may qualify for non-technical preference points such as Small/Micro Small Business, Non-Small Business, and Disabled Veteran Business Enterprises (DVBE). Each qualifying Bidder passing the minimum technical evaluation of 70 points will receive the applicable preference points.

#### **Small / Micro-Business**

Bidders who qualify as a State of California certified small business will receive five percent (5%) preference points based on the highest responsible Bidder's total score, if the highest scored proposal is submitted by a business other than a certified small business. Bidders qualifying for this preference must submit their Small Business Certification and document their status in **Attachment 1**, Contractor Status Form.

#### **Non-Small Business**

Government Code Section 14838(b)(2) also provides for a non-small business preference. The preference to a non-small business Bidder that commits to small business or micro-business subcontractor participation of twenty-five percent (25%) of its net bid price shall be five percent (5%) of the highest responsive, responsible Bidder's total score (RFP secondary). A non-small business, which qualifies for this preference, may not take an award away from a certified small business. The small business regulations are located at 2 CCR 1896 et seq. Bidders qualifying for this preference must document the small business status of all subcontractors on **Attachment 3.1** and submit all applicable Small Business Certifications.

#### **Target Area Contract Preference Request**

The Target Area Contract Preference Act (Government Code Section 4530 et seq.) provides five percent (5%) preference points to California-based companies that perform state contract work in a distressed area. Bidders should complete RFP **Attachment 7** if they qualify for this preference. If you have further questions or need additional information on this matter, please contact TACPA/LAMBRA Preference Program Group at (916) 375-4609.

#### **Enterprise Zone Request**

The Enterprise Zone Act (Government Code Section 7070, et seq.) provides preference points as an incentive for business and job development in distressed and declining areas of the State. Bidders should review RFP **Attachment 8** to determine if they qualify for this incentive. If you have further questions or need additional information on this matter, please contact TACPA/LAMBRA Preference Program Group at (916) 375-4609.

#### **Local Agency Military Base Recovery Act**

The Local Agency Military Base Recovery Act (LAMBRA, Government Code Section 7118, et seq.) provides five percent (5%) preference points to California-based

### III. EVALUATION PROCESS AND CRITERIA CONTINUED

companies that perform State contract work in the LAMBRA. Bidders should review RFP **Attachment 9** to determine if they qualify for this preference. If you have further questions or need additional information on this matter, please contact TACPA/LAMBRA Preference Program Group at (916) 375-4609.

#### **Disabled Veteran Business Enterprise**

The DVBE Incentive program was established pursuant to Military and Veterans Code Section 999.5(2) and Department of General Services' Regulations 2 CCR 1896.98 et.seq. The information below explains how the incentive is applied and how much of an incentive will be given.

#### **Incentive Application:**

Award Based on High Score for RFP: The Incentive is applied by adding points to Bidders that include at least 3% DVBE participation. Incentive points are included in the sum of non-cost Points (see "Incentive Amount" below). Incentive points cannot be used to achieve any applicable minimum point requirements. The DVBE incentive is only applied during the bid evaluation process and only to responsive/responsible bidders.

The DVBE Incentive Program may be used in conjunction with the Small Business preference which gives a 5% preference to small business proposers or 5% to non-small business proposers committed to subcontracting 25% of the overall bid with small businesses.

#### **Incentive Amount:**

Proposed DVBE Participation Level	DVBE Incentive % Point Preference	DVBE Incentive Points
3% - 4.99%	1%	1
5%+	2%	2

## **IV. Proposal Format, Required Documents, and Delivery**

### **ABOUT THIS SECTION**

This section contains the format requirements and instructions how to submit a proposal. The format is prescribed to assist the Bidder in meeting State bidding requirements and to enable the Commission to evaluate each proposal uniformly and fairly. Bidders must follow all Proposal format instructions, answer all questions, and supply all requested data.

### **LIMITATION IN THE PROPOSAL FORMAT AND LENGTH**

Proposals must be presented in a clear, complete, and concise manner. Proposal shall consist of three separate sections - Section 1, Section 2 and Section 3. Section 1 is the Administrative Response, Section 2 is the Technical Response, and Section 3 is the Cost Proposal. Section 1 shall include those items listed below in **Organize Your Proposal As Follows, Section 1, Administrative Response.**

Section 2 shall include those items listed below in **Organize Your Proposal As Follows, Section 2, Technical Response.** The Technical Response, exclusive of Table of Contents and Attachments, shall be kept to a maximum of 50 pages. Bidders are strongly encouraged to limit the length of their proposals while adequately covering the proposal requirements. Bidders who believe that supporting documentation or explanation beyond the 50 page limit is needed may attach such information in appendices to their proposal.

Section 3 shall include those items listed below in **Organize Your Proposal As Follows, Section 3, Cost Proposal.**

### **REQUIRED FORMAT FOR A PROPOSAL**

All proposals submitted under this RFP must be typed or printed using a standard 11-point font, singled-spaced and a blank line between paragraphs. Pages must be numbered and sections titled and printed back-to-back. Spiral or comb binding is preferred. Binders are discouraged.

### **NUMBER OF COPIES**

Bidders must submit 1 original and 4 copies of Sections 1, 2, 3.

Bidders must also submit electronic files of the proposal on [CD-ROM diskette](#) along with the paper submittal. Electronic files must be in Microsoft Word XP (.doc format) and Excel Office Suite formats. Electronic files submitted via e-mail will not be accepted.

## **IV. PROPOSAL FORMAT, REQUIRED DOCUMENTS, AND DELIVERY CONTINUED**

### **PACKAGING AND LABELING**

The original and copies of each section must be labeled "Request for Proposal 400-10-401," and include the title of the proposal:

Section 1, Administrative Response

Section 2, Technical Response

Section 3, Cost Proposal

Include the following label information and deliver your proposal, in a sealed package:

Person's Name, Phone # Bidder's Name Street Address City, State, Zip Code FAX #	RFP 400-10-401 Contracts Office, MS-18 California Energy Commission 1516 Ninth Street, 1st Floor Sacramento, California 95814
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### **PREFERRED METHOD FOR DELIVERY**

A Bidder may deliver a proposal by:

- U. S. Mail
- Personally
- Courier service

Proposals must be delivered no later than 3:00 p.m., to the Commission Contracts Office during normal business hours and prior to the date and time specified in this RFP. In accordance with Public Contract Code 10344, proposals received after the specified date and time are considered late and will not be accepted. There are no exceptions to this law. Postmark dates of mailing, E-mail and facsimile (FAX) transmissions are not acceptable in whole or in part, under any circumstances.

### **ORGANIZE YOUR PROPOSAL AS FOLLOWS:**

#### **Section 1, Administrative Response**

Cover Letter

Table of Contents

Contractor Status Form

Darfur Contracting Act Form

Small Business Preference Certification

Completed Disabled Veteran Business Enterprise  
form

Bidder Declaration form GSPD-05-105

Attachment 1

Attachment 2

Attachment 3.1 (If applicable)

Attachment 3.2

Attachment 3.3



## **IV. PROPOSAL FORMAT, REQUIRED DOCUMENTS, AND DELIVERY CONTINUED**

Contractor Certification Clauses	Attachment 4
Target Area Control Preference Act Form	Attachment 7 (If applicable)
Enterprise Zone Request Form	Attachment 8 (If applicable)
Local Agency Military Base Recovery Act Form	Attachment 9 (If applicable)
Budget Documents for Hypothetical Work Authorization	Attachment 10

### **Section 2, Technical Response**

Approach to Tasks in Scope of Work  
Team Organizational Structure  
Project Team Experience and Qualifications  
Client References

Attachment 5

#### **A. Approach to tasks in Scope of work**

Describe the Bidder's approach to providing services listed in the Scope of Work, highlighting any outstanding features, qualifications and experience.

#### **B. Team Organizational Structure**

1. Describe the organizational structure of the Bidder, including providing an organizational chart of the entire contract team.
2. Identify the location of the Bidder's and Subcontractor's headquarters and satellite office(s) and proposed methods of minimizing costs to the State.
3. Provide a short description of each firm and key members on the team. Describe the relationship between the Contractor and subcontractors on your team. Indicate any history of a working relationship between the team members noting any significant success stories.
4. Describe professional awards.
5. Describe the organization, composition, and functions to be performed by staff members of the Bidder and any subcontractors and how the staff pertains to this contract.
6. Identify a primary contact person. This person should attend the oral interview session. At least one person from each technical area should also attend the interview.
7. Describe any technical capabilities that would facilitate communicating with the Energy Commission (e.g., internet capability and electronic reports).
8. Identify the locations where the Bidder's and subcontractors' work will be performed. Consistent with the goals of ARRA, all SEP-funded work must be performed within the United States or its territories. No SEP funds may be expended under the contract let by this RFP for work performed outside the United States or its territories.

## IV. PROPOSAL FORMAT, REQUIRED DOCUMENTS, AND DELIVERY CONTINUED

### C. Labor Hours by Personnel and Task

Provide the title or classification of each as it applies to each task, including subcontractors.

### D. Project Team Relevant Experience and Qualifications

1. Document the project team's qualifications as they apply to performing the tasks described in the Scope of Work. Describe the nature and scope of recently completed work as it relates to the Scope of Work.
2. Identify and list all Bidder staff and subcontractors (all team members) who will be committed to the tasks and describe their roles.
3. Describe job classification, relevant experience, education, academic degrees and professional licenses of these technical staff team members.
4. Provide a current resume for all team members listed.
5. Identify the percentage of time each team member will be available throughout the contract.
6. Describe their familiarity with the administration, management, and technical expertise in performing pertinent tasks identified in the Scope of Work.

### E. Client References

Each Bidder shall complete a Client References Form (Attachment 5). Three client references are required for the Contractor.

## Section 3, Cost Proposal

Budget Summary	Attachment B-1
Prime and Sub Rates	Attachment B-2
Prime and Sub Indirect Rates	Attachment B-3

The Contractor must submit information on all the attached budget forms, B-1 through B-3, and will be deemed the equivalent of a formal bid submission under the Public Contract Code. Rates and personnel shown must reflect rates and personnel you would charge if you were chosen as the contractor for this RFP.

**NOTE:** The information provided in these forms will not be kept confidential.

The salaries, rates, and other costs entered on these forms become a part of the final contract. The entire term of the contract and projected rate increases must be considered when preparing the budget. The rates bid are considered capped and shall not change during the term of the contract. The Contractor shall only be reimbursed for their actual rates up to these rate caps.

## **V. Administration**

### **IMPORTANT ADMINISTRATIVE DETAILS**

#### **Cost of Developing Proposal**

The Bidder is responsible for the cost of developing a proposal, and this cost cannot be charged to the State.

#### **Confidential Information**

The Commission will reject any Proposals that are marked as confidential in their entirety or that include materials or information marked as confidential.

#### **Darfur Contracting Act of 2008**

Effective January 1, 2009, all RFPs must address the requirements of the Darfur Contracting Act of 2008 (Act). (Public Contract Code sections 10475, *et seq.*; Stats. 2008, Ch. 272). The Act was passed by the California Legislature and signed into law by the Governor to preclude State agencies generally from contracting with “scrutinized” companies that do business in the African nation of Sudan (of which the Darfur region is a part), for the reasons described in Public Contract Code section 10475.

A scrutinized company is a company doing business in Sudan as defined in Public Contract Code section 10476. Scrutinized companies are ineligible to, and cannot, bid on or submit a proposal for a contract with a State agency for goods or services. (Public Contract Code section 10477(a)).

Therefore, Public Contract Code section 10478 (a) requires a company that currently has (or within the previous three years has had) business activities or other operations outside of the United States to certify that it is not a “scrutinized” company when it submits a bid or proposal to a State agency. (See # 1 on Attachment 2).

A scrutinized company may still, however, submit a bid or proposal for a contract with a State agency for goods or services if the company first obtains permission from the Department of General Services (DGS) according to the criteria set forth in Public Contract Code section 10477(b). (See # 2 on Attachment 2).

#### **Disabled Veteran Business Enterprises (DVBE) Compliance Requirements-**

The Disabled Veteran Business Enterprise (DVBE) Program has two inter-related aspects:

**Participation Goals:** The mandatory DVBE Participation Program of achieving participation goals by attaining the minimum 3% goal.

And,

## V. ADMINISTRATION CONTINUED

**Incentive:** The DVBE Incentive Program gives a contractor an opportunity to improve their bid status based on the efforts attained from the DVBE Participation Program.

This RFP is subject to a participation goal of three percent (3%) certified California Disabled Veteran Business Enterprise (DVBE) as set forth in Public Contract Code Section 10115 et seq.

### **“COMMERCIALLY USEFUL FUNCTION” REQUIREMENTS FOR CERTIFIED SMALL BUSINESS, MICROBUSINESS OR DVBE**

A certified small business or Microbusiness, or certified DVBE shall provide goods or services that contribute to the fulfillment of the contract requirements by performing a **commercially useful function**.

A certified small business, Microbusiness or DVBE is deemed to perform a **commercially useful function** if it does all of the following:

1. Is responsible for the execution of a distinct element of the work of the contract.
2. Carries out its obligation by actually performing, managing, or supervising the work involved.
3. Performs work that is normal for its business services and functions.
4. Is not further subcontracting a portion of the work that is greater than that expected to be subcontracted by normal industry practices.

A contractor, subcontractor, or supplier will not be considered to perform a **commercially useful function** if the contractor's, subcontractor's, or supplier's role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of small business, Microbusiness or DVBE participation.

### **Certified Small/Microbusiness and Non-Small Business Information**

#### **Definition**

- A. **Small business** means a business certified by the Office of Small Business Disabled Veteran Certification (OSDC) in which:
1. The principal office is located in California.
  2. The officers are domiciled in California.
  3. The business is independently owned and operated.
  4. The business, with any affiliates, is not dominant in its field of operation.
  5. And either:
    - a. The business, together with any affiliates, has 100 or fewer employees and average annual gross receipts of \$12,000,000 (12 million) or less over the previous three years, or
    - b. The business is a manufacturer with 100 or fewer employees.
- B. **Microbusiness** means a small business certified by OSCD in which:
1. The principal office is located in California.

## **V. ADMINISTRATION CONTINUED**

2. The officers are domiciled in California.
3. The business is independently owned and operated.
4. The business, with any affiliates, is not dominate in its field of operation.
5. And either:
  - a. The business, together with any affiliates, has 25 or fewer employees and averages annual gross receipts of \$2,750,000 or less over the previous three years, or
  - b. The business is a manufacturer with 25 or fewer employees.

### **C. Commercially Useful Function for Small Business**

A certified small business or Microbusiness shall provide goods or services that contribute to the fulfillment of the contract requirements by performing a “commercially useful function” defined as follows: 1) is responsible for the execution of a distinct element of the work of the contract; 2) carries out its obligation by actually performing, managing or supervising the work involved; 3) performs work that is normal for its business services and functions; and 4) is not further subcontracting a portion of the work that is greater than that expected to be subcontracted by normal industry practices. A small or Microbusiness contractor, subcontractor or supplier is not performing a “commercially useful function” if its role is limited to that of an extra participant in a transaction, contract or project through which funds are passed in order to obtain the appearance of small business or Microbusiness participation. (Government Code Section 14737(d)(4); Military & Veterans Code section 999(e)(2); Title 2 California Code of Regulations section 1896.61(l)).

### **D. Eligibility**

A business must be formally certified by OSDC to be considered for the small business or Microbusiness preference.

### **E. Benefits of Certification**

A certified small business or Microbusiness is entitled to claim a five percent preference in bidding on state contracts. Certified small business or Microbusinesses are also entitled to interest penalties paid by the state for late payment of invoices. The penalties are greater for certified small business or Microbusinesses than for non-certified businesses.

## **V. ADMINISTRATION CONTINUED**

### **F. Non-Small Business Preference Program**

The preference to a non-small business Bidder that commits to small business or Microbusiness subcontractor participation of twenty-five percent (25%) of its net bid price shall be five percent (5%) of the lowest, responsive, responsible Bidder's price. A non-small business which qualifies for this preference may not take an award away from a certified small business.

## **RFP CANCELLATION AND AMENDMENTS**

If it is in the State's best interest, the Energy Commission reserves the right to do any of the following:

- Cancel this RFP;
- Amend this RFP as needed; or
- Reject any or all Proposals received in response to this RFP

If the RFP is amended, the Energy Commission will send an addendum to all parties who requested the RFP and will also post it on the Energy Commission's Web Site [www.energy.ca.gov/contracts](http://www.energy.ca.gov/contracts) and Department of General Services' Web Site [www.cscr.dgs.ca.gov/cscr](http://www.cscr.dgs.ca.gov/cscr).

## **Errors**

If a Bidder discovers any ambiguity, conflict, discrepancy, omission, or other error in the RFP, the Bidder shall immediately notify the Commission of such error in writing and request modification or clarification of the document. Modifications or clarifications will be given by written notice of all parties who requested the RFP, without divulging the source of the request for clarification. The Commission shall not be responsible for failure to correct errors.

## **MODIFYING OR WITHDRAWAL OF PROPOSAL**

A Bidder may, by letter to the Contact Person at the Energy Commission, withdraw or modify a submitted Proposal before the deadline to submit proposals. Proposals cannot be changed after that date and time. A Proposal cannot be "timed" to expire on a specific date. For example, a statement such as the following is non-responsive to the RFP: "This proposal and the cost estimate are valid for 60 days."

## **IMMATERIAL DEFECT**

The Energy Commission may waive any immaterial defect or deviation contained in a Bidder's proposal. The Energy Commission's waiver shall in no way modify the proposal or excuse the successful Bidder from full compliance.

## **V. ADMINISTRATION CONTINUED**

### **BIDDERS' ADMONISHMENT**

This RFP contains the instructions governing the requirements for a firm quotation to be submitted by interested Bidders, the format in which the technical information is to be submitted, the material to be included, the requirements which must be met to be eligible for consideration, and Bidder responsibilities. Bidders must take the responsibility to carefully read the entire RFP, ask appropriate questions in a timely manner, submit all required responses in a complete manner by the required date and time, make sure that all procedures and requirements of the RFP are followed and appropriately addressed, and carefully reread the entire RFP before submitting a proposal.

### **GROUND TO REJECT A PROPOSAL**

#### **A Proposal shall be rejected if:**

- It is received after the exact time and date set for receipt of Proposals pursuant to Public Contract Code section 10344.
- It is considered non-responsive to the California Disabled Veteran Business Enterprise (DVBE) participation requirements.
- It is lacking a properly executed Certification Clauses form.
- It is lacking a properly executed Darfur Contracting Act form.
- It contains false or intentionally misleading statements or references which do not support an attribute or condition contended by the Bidder.
- It is intended to erroneously and fallaciously mislead the State in its evaluation, and the attribute, condition, or capability is a requirement of this RFP.
- There is a conflict of interest as contained in Public Contract Code sections 10410-10412 and/or 10365.5.
- It is marked as confidential in its entirety or includes materials or information marked as confidential.

#### **A Proposal may be rejected if:**

- It does not adequately document that the Contractor and all subcontractors will perform all SEP-funded work within the United States and its territories.
- It is not prepared in the mandatory format described.
- It is unsigned.
- The firm or individual has submitted multiple proposals for each task.
- It does not literally comply or contains caveats that conflict with the RFP and the variation or deviation is not material, or it is otherwise non-responsive.

### **DISPOSITION OF BIDDER'S DOCUMENTS**

On the Notice of Proposed Award posting date all proposals and related material submitted in response to this RFP become a part of the property of the State and public record. Bidders who want any work examples they submitted with their proposals returned to them shall make this request and provide either sufficient postage, or a Courier Charge Code to fund the cost of returning the examples.

### **UNSUCCESSFUL BIDDERS**

After the NOPA is posted, each unsuccessful Bidder may request a debriefing meeting with the Commission Contract Office. The debriefing meeting is an opportunity for an unsuccessful Bidder to learn why their particular proposal was not successful and may provide insight to improving proposal preparation for future solicitations.

### **PROTEST PROCEDURES**

A Bidder may file a protest against the proposed awarding of a contract. Once a protest has been filed, contracts will not be awarded until either the protest is withdrawn, the Commission cancels the RFP, or the Department of General Services decides the matter.

Please note the following:

- Protests are limited to the grounds contained in the California Public Contract Code section 10345.
- During the five working days that the Notice of Proposed Award (NOPA) is posted, protests must be filed with the DGS Legal Office and the Commission Contracts Office.
- Within five days after filing the protest, the protesting Bidder must file with the DGS and the Commission Contracts Office a full and complete written statement specifying the grounds for the protest.
- If the protest is not withdrawn or the solicitation is not canceled, DGS will decide the matter. There may be a formal hearing conducted by a DGS hearing officer or there may be briefs prepared by the Bidder and the Commission for the DGS hearing officer consideration.

### **AGREEMENT REQUIREMENTS**

The content of this RFP shall be incorporated by reference into the final contract. See the sample Agreement terms and conditions included in this RFP.

#### **No Contract Until Signed and Approved**

No agreement between the Commission and the successful Bidder is in effect until the contract is signed by the Contractor, approved at a Commission Business Meeting, and approved by the Department of General Services, if required.

#### **Contract Amendment**

The contract executed as a result of this RFP will be able to be amended by mutual consent of the Commission and the Contractor. The contract may require amendment as a result of project review, changes and additions, changes in project scope, or availability of funding.



## **ARRA-Specific Information**

### **PERIOD OF PERFORMANCE**

Pursuant to the federal SEP guidelines, all activities that are awarded funds must be completed and funds must be expended by March 31, 2012. A Contractor may not begin work pursuant to this RFP prior to the Energy Commission's approval and execution of the Contractor's Agreement. Project expenses incurred prior to the approval and execution of the Agreement are not eligible for reimbursement under the Agreement.

### **PROJECT CHANGES**

Changes to a project's work statement, including changes to specific line items in the project budget, may be approved by the ARRA Committee under the following conditions:

1. Such changes do not substantially alter the original scope or purpose of the project as proposed in the application and as approved by the ARRA Committee and/or full Energy Commission.
2. Such changes do not substantially reduce the value of the project. Unless otherwise indicated in the Agreement, all changes are subject to necessary approval by the ARRA Committee. The Contractor shall notify Energy Commission staff in writing and obtain either ARRA Committee or full Energy Commission approval in advance of implementing any such changes.

### **REALLOCATION OF FUNDS**

Funding may be reallocated as necessary to best achieve the overall goals of ARRA and to comply with state law and policy. Funds identified in the RFP may be reallocated and used for another ARRA purpose only after the RFP has closed and awards have been made, or the RFP has been cancelled. The Energy Commission may reallocate funds in the Agreement if it determines that insufficient progress is being made towards implementing the project, and that there is a significant risk that all funds in the Agreement will not be expended by the date specified. The Energy Commission may terminate or amend the Agreement to accomplish this reallocation.

### **PROGRAM EVALUATION, PROJECT MONITORING, AND VERIFICATION**

Proper stewardship surrounding the administration, reporting, accounting and transparency of ARRA funds is essential to the Energy Commission's administration of the ARRA SEP. Federal and state agencies, the Energy Commission, or their respective agents will audit a sample of funding recipients to verify compliance with ARRA reporting requirements and the solicitation document and to measure and verify appropriate use and expenditure of ARRA funds. In addition, the Energy Commission will monitor the progress of agreements and evaluate the effectiveness of particular projects.

## **V. ADMINISTRATION CONTINUED**

The Energy Commission may audit funding recipients to measure and verify appropriate use and expenditure of ARRA funds. Upon written request from the Energy Commission, the Contractor shall provide detailed documentation of all expenses and allow the Energy Commission or its agent access to facilities and records.

In addition, the Contractor must allow the Energy Commission or any other agency of the State, upon written request, to have reasonable access to and the right to inspect all records that pertain to the project during the term of the Agreement and for a period of three years after the ending term of the Agreement. Further, the Contractor must agree to incorporate an audit of this project within any scheduled audits, when specifically requested by the Energy Commission or the State.

The Contractor must agree to include a similar right to audit in any subcontract with sub-funding awardees. The Contractor shall retain all project records (including financial records, progress reports, and payment requests) for a minimum of three years after the project has been formally concluded or final payment is received, whichever is later, unless otherwise specified in the Agreement.

### **ENFORCEMENT ACTION**

#### **1. Recovery of Overpayment**

The ARRA Committee, with the concurrence of the Energy Commission, may direct the Energy Commission's Office of Chief Counsel to commence formal legal action against any recipient or former recipient to recover any portion of a funding award the Committee determines the recipient or former recipient was not otherwise entitled to receive.

#### **2. Fraud and Misrepresentation**

The Energy Commission or the ARRA Committee may initiate an investigation of any recipient which it has reason to believe may have misstated, falsified, or misrepresented information in applying for a funding award, invoicing for a funding award payment, or in reporting any information as required by this RFP. Based on the results of the investigation, the Energy Commission or ARRA Committee may take any action it deems appropriate, including, but not limited to, cancellation of the funding award, recovery of any overpayment, and recommending the initiation of an Attorney General investigation and prosecution pursuant to Government Code sections 12650, et seq., or other provisions of law. The State of California, through the Attorney General's Office or other state agency, may independently investigate any recipient and bring actions for fraud, misrepresentation, or misuse of SEP funds as appropriate.

#### **3. Federal Action**

The Federal government, through various departments, including, but not limited to, DOE and the U.S. Department of Justice, may independently investigate any recipient and bring actions for fraud, misrepresentation, or misuse of SEP funds as appropriate.

## **USE AND DISCLOSURE OF INFORMATION AND REPORTS**

The Energy Commission, other state agencies, the federal government, or their respective authorized agents may use any information or records submitted to the Energy Commission or obtained as part of any audit pursuant to this RFP to determine eligibility and compliance with this RFP, applicable law, or a particular funding award agreement, to evaluate the pertinent program or program elements, and to prepare necessary reports as required by law. The information and records include, but are not limited to, applications for funding, invoices for award payments, and any documentation submitted in support of said applications or invoices.

Information and records submitted pursuant to the RFP will be disclosed to other governmental entities and policing authorities for civil and criminal investigation and enforcement purposes. This information and records may also be disclosed to the public pursuant to the California Public Records Act (Government Code section 6250, et seq.). Personal information, such as taxpayer identification or social security numbers, will not be disclosed to the public.

Applicants should note that ARRA funds are subject to information disclosure requirements through the federal Office of Management and Budget as well as other federal agencies to ensure transparency. Information concerning the identity of recipients and the amount of payment of awards is public information, and will be disclosed as part of the ARRA transparency requirements and in accordance with the California Public Records Act. This information, along with other public information describing the funding recipients, may be disclosed to members of the public to educate them and encourage further program participation. The information may be disclosed through the Energy Commissions website, another state agency's website, a federal government website, or through other means.

If, as part of any audit, the Energy Commission requires a recipient to provide copies of records that the recipient believes contain proprietary information entitled to protection under the California Public Records Act or other law, the Contractor may request that such records be designated confidential pursuant to the Energy Commission's regulations for confidential designation, Title 20, section 2505 of the California Code of Regulations.